IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 17281 of 2007(G)

PETITIONER:

HAMZA MUSLIYAR, S/O ABDURAHMAN HAJI,
AGED 50 YEARS, VADAKKEPURATH,
MOONNIYOOR SOUTH, MOONNIYOOR P.O.,
THIROORANGADI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.P.S.ABDUL KAREEM

RESPONDENTS:

THE TAHSILDAR,
THIRURANGADI TALUK OFFICE,
MALAPPURAM DISTRICT.

BY G.P. SHRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 17281/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE JENMOM ASSIGNMENT DEED. DTD.14.5.1999.

P2. COPY OF THE -DO- DTD.24.10.00.

P3. COPY OF THE RECEIPT.

P4. COPY OF THE RECEIPT.

P5. COPY OF THE NOTICE FROM TALUK OFFICE.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

==========

W.P.(C).No. 17281 of 2007

==========

Dated this the 8th day of August, 2007

J U D G M E N T

The petitioner challenges Ext.P5 notice by which the petitioner has been directed to vacate the property mentioned therein within 24 hours on the ground that he is in unauthorised occupation of Government land. Petitioner's contention is that the property absolutely belongs to the petitioner as evidenced by the documents now produced and that the petitioner has not been heard before passing Ext.P5.

2. I have heard the learned Government Pleader also.

3. The learned Government Pleader could not satisfy me that Ext.P5 has been preceded by any notice or hearing. Ext.P5 also does not give any reason as to why the emergency provisions under the the Kerala Land Conservancy Act should be invoked. Therefore, I am satisfied that Ext.P5 has been issued in violation of the principles of natural justice as also the provisions

of the Kerala Land Conservancy Act and Rules. In such circumstances, Ext.P5 is liable to be quashed. If Ext.P5 is considered as a show-cause notice, it may not be necessary to quash the same. In the above circumstances, I dispose of this writ petition with the following directions:

The respondent shall consider Ext.P5 as a show-cause notice. The petitioner shall file his objections to the same within two weeks from today. The respondent shall thereafter afford an opportunity of being heard to the petitioner, which shall include opportunity to adduce evidence also. A speaking order shall be passed by the respondent considering the contentions of the petitioner in the light of the evidence to be produced by him. Till after five days of communicating such orders to the petitioner, the petitioner shall not be evicted from the property in question.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.